

1 **David Alan Morgensen**  
2 **c/o 375 Woodland Drive**  
3 **Scotts Valley, California 95066**

4 **Phone 408-466-9311**  
5 **No Fax**

6 **In Pro Se**

**Filed**

**JUN 25 2015**

**RICHARD W. WIEKING**  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

7  
8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN JOSE DIVISION**

11 **David Alan Morgensen, an individual**

12 **Plaintiff,**

13 **vs.**

14  
15 **DOWNEY SAVINGS AND LOAN**  
16 **ASSOCIATION, FA, A**  
17 **CALIFORNIA CORPORATION,**  
18 **U.S. BANK OF CALIFORNIA, AN**  
19 **OREGON CORPORATION,**  
20 **GREENWICH CAPITAL**  
21 **FINANCIAL, INC., A DELEWARE**  
22 **CORPORATION,**  
23 **CENTRAL MORTGAGE**  
24 **COMPANY, DBA CENTRAL**  
25 **MORTGAGE SERVICING**  
26 **COMPANY, and DOES 1 through 10**  
27 **inclusively;**

28 **Defendants.**

**Case No. 5:15-cv-2000-HRL**

**VERIFIED OPPOSITION TO**  
**DEFENDANT GREENWITCH**  
**CAPITAL FINANCIAL PRODUCTS,**  
**INC.'S NOTICE OF MOTION AND**  
**MOTION TO DISMISS**

**SEVENTH AMENDMENT**  
**TRIAL BY JURY DEMANDED**

**Courtroom: 2, 5<sup>th</sup> Floor**

**San Jose Courthouse**

**Judge: The Honorable Magistrate**  
**Judge HOWARD R. LLOYD**

1. Plaintiff, David Alan Morgensen (Hereinafter, "Plaintiff Morgensen") hereby submits this his document entitled: **VERIFIED OPPOSITION TO DEFENDANT GREENWITCH CAPITAL FINANCIAL PRODUCTS, INC.'S NOTICE OF MOTION AND MOTION TO DISMISS.**

2. The subjects document is full of book boiler-plate allegations with absolutely no court admissible evidence to prove such allegations and appears to be attempting to have this Honorable Court believe that modern lower courts have the ability and authority to overrule a well-settled United States Supreme Court decision regarding the fatal separation of the Promissory Note from the Trust Deed or Mortgage, in which Plaintiff Morgensen has justifiably relied.

### **PRO SE/PRO PER STANDARDS**

3. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), pro se/pro per pleadings MAY NOT be held to the same standard as government privileged lawyer's and/or attorney's.

4. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), pro se/pro per motions, pleadings and all papers may ONLY be judged by their substance and never their Form.

5. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), David Alan Morgensen, is to be considered *in pro se/in pro per*, also known as *in proper persona*.

6. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v. C.I.A., 953 F.2d. 25, *pro se* litigants complaints, pleadings and other papers are exempt from dismissal regarding Form and not substance.

7. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v.

1 C.I.A., 953 F.2d. 25, *pro se* Documents CANNOT be dismissed without the court  
2 providing the opportunity for the *pro se* litigant to correct the Document.

3 8. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES  
4 SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v.  
5 C.I.A., 953 F.2d. 25, the court MUST inform the *pro se* litigant of the Petition's  
6 deficiency.

7 9. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES  
8 SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v.  
9 C.I.A., 953 F.2d. 25, the court must instruct the *pro se* litigant on the necessary  
10 information for any needed corrections.

11 10. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES  
12 SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v.  
13 C.I.A., 953 F.2d. 25, the *pro se* litigant may introduce any evidence in support of his  
14 Document.

15 11. Plaintiff Morgensen hereby submits that the Court errs if the court dismisses the  
16 *pro se* litigants complaint without instruction as to how the pleadings are deficient and  
17 how to correct the pleadings. See Platsky v. C.I.A., 953 F.2d. 25.

18 12. Plaintiff Morgensen hereby submits that Litigants' constitutional (Unalienable  
19 and guaranteed and secured) rights (granted by Yahweh the Creator) are violated when  
20 courts depart from precedent, where parties are similarly situated. See *Anastasoff v.*  
21 *United States*, 223 F.3d 898 (8th Cir. 2000)

### 22 **MANDATORY JUDICIAL NOTICE of LICENSE FOR ATTORNEYS**

23 13. Comes now David Alan Morgensen, Plaintiff *pro se*, hereby moves this  
24 Honorable Court to take Mandatory Judicial Notice pursuant to California Evidence  
25 Code §451 of the following; (Please take note that I have added all highlighting to make  
26 easier viewing of the word "license").

27 14. **California Business and Professions Code §6067**

1 “ Every person on his admission shall take an oath to support the  
2 Constitution of the United States and the Constitution of the State of  
3 California, and faithfully to discharge the duties of any attorney at law to  
4 the best of his knowledge and ability. A certificate of the oath shall be  
indorsed upon his license.” (emphasis added)

5 15. California Business and Professions Code §6002;

6 “The State Bar is a “public corporation” of which every person licensed to  
7 practice law in the state is a member (Cal. Const., art. VI, §9). Richard  
8 Sander et al., v. STATE BAR OF CALIFORNIA (2013) Cal. 4<sup>th</sup>.  
9 (Emphasis added)

10 16. "A bar card is not a license, it's a dues card and/or membership card. A  
11 bar association is that what it is, a club, an association is not license, it has  
12 a certificate through the State, the two are not the same...." Sims v. Aherns,  
13 271 S.W. 720 (1925)

14 17. California Rules of Court 9.4:

15 “In addition to the language required by Business and Professions Code  
16 section 6067, the oath to be taken by every person on admission to practice law is to  
17 conclude with the following: ‘As an officer of the court, I will strive to conduct  
18 myself at all times with dignity, courtesy and integrity.’”

19 20. California Business Professions Code §145:

21 The Legislature finds and declares that:

22 (a) Unlicensed activity in the professions and vocations regulated by the  
23 Department of Consumer Affairs is a threat to the health, welfare, and  
24 safety of the people of the State of California.

25 (b) The law enforcement agencies of the state should have sufficient,  
26 effective, and responsible means available to enforce the licensing laws of  
27 the state.  
28

(c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license. (emphasis added)

19. **PLEASE TAKE NOTICE**: I, David Alan Morgensen am a pro se litigant and claim all my rights and waive none. I hereby invoke the powers and protections of *Haines v. Kerner* 404 U.S. 519 (1972), *Simmons v. Abruzzo*, 49 F.3d 83 (2nd Cir. 1995); *Ferran v. Town of Nassau*, 11 F.3d 21(2nd Cir. 1993); *Boag v. MacDougall*, 454 U.S. 364 (1982);

“Pro se litigants pleadings are to be construed liberally and held to less stringent standard than formal pleadings drafted by lawyers; if court can reasonably read pleadings to state valid claim on which litigant could prevail, it should do so in despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigant’s unfamiliarity with pleading requirements.”

20. In order to prove they have standing to represent any named Defendants, Respectful Demand is hereby made for attorney’s FREDRICK S. LEVIN (SBN 187603), JESSICA L. POLLET (SBN 266258), and H. JOSEPH DRAPALISKI III (SBN 298791, to place into the instant record, a certified copy of their *California state issued* License to Practice Law in the State of California, with their OATH OF OFFICE and affixed to the back pursuant to the mandates of *California Evidence Code* §451, *California Business and Professions Code* §6002; *California Business and Professions Code* §6067.

21. Respectful Demand is also hereby made for attorneys FREDRICK S. LEVIN (SBN 187603), JESSICA L. POLLET (SBN 266258), and H. JOSEPH DRAPALISKI III (SBN 298791, to place into the instant record a Certified Copy of their Constitutionally mandated Surety, Security, or Performance Bond to Constitutionally show who or what will be financially responsible to pay Damages for any injuries sustained by Plaintiff Morgensen.

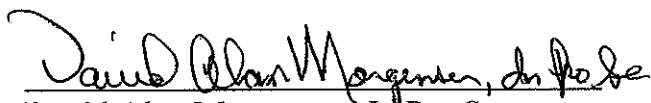
## **VERIFICATION**

I, Plaintiff David Alan Morgensen, attest to the truth of the following:

I have read the foregoing **VERIFIED OPPOSITION TO DEFENDANT GREENWITCH CAPITAL FINANCIAL PRODUCTS, INC.'S NOTICE OF MOTION AND MOTION TO DISMISS**, and know the contents thereof.

I am a party to the above entitled action or proceeding, and certify that the matters stated therein are facts of my own knowledge.

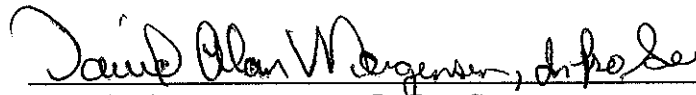
I declare under the penalty of perjury of the Laws of California state and *these* United States of the America, that the foregoing document is correct and complete to the best of my knowledge, information and belief, and that this Verification is executed by the voluntary act of my own hand in Santa Cruz County and is dated this twenty-fifth day of the sixth month, in the year two thousand and fifteen, Anno Domini, in the Two-Hundred and thirty-ninth year of the Independence of the America.



David Alan Morgensen, In Pro Se  
Authorized Representative of DAVID ALAN  
MORGENSEN  
(Legal distinction being made on the record)

22. This document contains a 1,812 word count.

23. This document is executed by the voluntary act of my own hand in Santa Cruz County, California state, and is dated this twenty-fifth day of the sixth month, in the year two thousand fifteen, Anno Domini, in the two-hundred and thirty-ninth year of the Independence of America.



David Alan Morgensen, In Pro Se  
Authorized Representative  
of DAVID ALAN MORGENSEN  
(Legal distinction being made on the record)



## **PROOF OF SERVICE**

In the California state, Santa Clara County.

I, the undersigned, herein declare that I am over the age of eighteen years and NOT a party to the within entitled action.

I hereby declare under the penalty of perjury in California state and *these* United States of America, that I served the foregoing document entitled: **VERIFIED OPPOSITION TO DEFENDANT GREENWITCH CAPITAL FINANCIAL PRODUCTS, INC.'S NOTICE OF MOTION AND MOTION TO DISMISS**, on the opposing party(ies) via Substitution of Service by Personal Service to the one in charge of the office and then by depositing in a Mail Box maintained by the United States Postal Service with postage prepaid, on this twenty-fifth day of the sixth month, in the year two thousand and fifteen, addressed as follows:

**BUCKLEYSANDLER LLP  
FREDRICK S. LEVIN (SBN 187603)  
JESSICA L. POLLET (SBN 266258)  
H. JOSEPH DRAPALISKI III (SBN 298791)  
100 Wilshire Boulevard, Suite 1000  
Santa Monica, California 90401**

I declare under the penalty of perjury of the Laws of the California state and *these* united States of the America, that the foregoing is correct and complete to the best of my knowledge, information and belief, and that this PROOF OF SERVICE is executed by the voluntary act of my own hand in Santa Cruz County and is dated this twenty-fifth day of the sixth month, in the year two thousand and fifteen, Anno Domini, in the Two-Hundred and thirty-ninth year of the Independence of the America.

Ali Haider

4722 Harwood Road

San Jose, CA 95124

